



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087808-315	02/28/97	KINOSHITA	H 2477/PD-5385

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MM31/0211

EXAMINER  
CHANG, J

ART UNIT	PAPER NUMBER
2812	

DATE MAILED: 02/11/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 08/808,315	Applicant(s) Hiroyuki Kinoshita et al.
Examiner Joni Y. Chang	Group Art Unit 2812

- Responsive to communication(s) filed on \_\_\_\_\_.
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 0 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

- Claim(s) 1-16 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) \_\_\_\_\_ is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claims 1-16 are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received: \_\_\_\_\_.
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to a laser diode, classified in class 257, subclass 53.
  - II. Claims 9-16, drawn to a method of fabricating a laser diode, classified in class 438, subclass 166.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group II invention could be made by processes materially different from those of the group I invention.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joni Chang, whose telephone number is (703) 308-3858. The examiner can normally be reached on Monday-Friday from 6:30 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on (703) 308-3325. The fax phone number for this Group is (703)308-7722 or 308-7724.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0956.



Joni Y. Chang  
Primary Patent Examiner  
Technology Center 2800

JYC

February 9, 1999